



Committee on State Administration Appropriations

Tuesday, April 4, 2006

COMMITTEE ACTION REPORT

COMMITTEE MEETING REPORT

State Administration Appropriations Committee

4/4/2006 4:00:00PM Or Upon Adjournment of the Fiscal Council

Location: 12 HOB

Attendance:

	<i>Present</i>	<i>Absent</i>	<i>Excused</i>
Kim Berfield (Chair)	X		
Mary Brandenburg			X
Audrey Gibson	X		
Wilbert Holloway	X		
Stan Jordan	X		
John Legg	X		
Carlos Lopez-Cantera	X		
Ron Reagan	X		
Julio Robaina	X		
Franklin Sands	X		
Baxter Troutman	X		
Totals:	10	0	1

COMMITTEE MEETING REPORT

State Administration Appropriations Committee

4/4/2006 4:00:00PM Or Upon Adjournment of the Fiscal Council

Location: 12 HOB

HB 159 CS : Regulation of Real Estate Appraisers

☒ Favorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Mary Brandenburg			X		
Audrey Gibson	X				
Wilbert Holloway	X				
Stan Jordan	X				
John Legg	X				
Carlos Lopez-Cantera			X		
Ron Reagan	X				
Julio Robaina	X				
Franklin Sands	X				
Baxter Troutman	X				
Kim Berfield (Chair)	X				
Total Yeas: 9 Total Nays: 0					

COMMITTEE MEETING REPORT
State Administration Appropriations Committee
4/4/2006 4:00:00PM Or Upon Adjournment of the Fiscal Council

Location: 12 HOB

HB 217 CS : Sinkhole Insurance

☒ *Favorable With Committee Substitute*

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Mary Brandenburg			X		
Audrey Gibson	X				
Wilbert Holloway	X				
Stan Jordan	X				
John Legg	X				
Carlos Lopez-Cantera	X				
Ron Reagan	X				
Julio Robaina	X				
Franklin Sands	X				
Baxter Troutman	X				
Kim Berfield (Chair)	X				
Total Yeas: 10		Total Nays: 0			

Appearances:

HB 217 CS Strike-All Amendment
Mike Peters (General Public) - Proponent
11836 Little Rd
New Port Richey FL 34654
Phone: 727-862-3519

HB 217 CS Strike-All Amendment
William Standes, Assistant Vice President (Lobbyist) - Proponent
Property Casualty Insurers Association of America
P.O. Box 11174
Tallahassee FL 32303
Phone: 681-2615

HB 217 CS Strike-All Amendment
Jon Moyle (Lobbyist) - Opponent
Merlin Law Group
118 N. Gadsden St.
Tallahassee FL
Phone: 681-3828

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

Bill No. 0217

COUNCIL/COMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u>Y</u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

Council/Committee hearing bill: State Administration
Appropriations Committee
Representative Legg offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. This act may be cited as the "Sinkhole
Insurance Relief Act."

Section 2. Subsections (2), (3), (5), (6), and (9) of
section 627.707, Florida Statutes, are amended to read:

627.707 Standards for investigation of sinkhole claims by
insurers; nonrenewals.--Upon receipt of a claim for a sinkhole
loss, an insurer must meet the following standards in
investigating a claim:

(2) Following the insurer's initial inspection, the
insurer shall engage a professional ~~an~~ engineer or a
professional geologist to conduct testing as provided in s.
627.7072 to determine the cause of the loss within a reasonable
professional probability and issue a report as provided in s.
627.7073, if:

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

(a) The insurer is unable to identify a valid cause of the damage or discovers damage to the structure which is consistent with sinkhole loss; or

(b) The policyholder demands testing in accordance with this section or s. 627.7072.

(3) Following the initial inspection of the insured premises, the insurer shall provide written notice to the policyholder disclosing the following information:

(a) What the insurer has determined to be the cause of damage, if the insurer has made such a determination.

(b) A statement of the circumstances under which the insurer is required to engage a professional ~~an~~ engineer or a professional geologist to verify or eliminate sinkhole loss and to engage a professional ~~an~~ engineer to make recommendations regarding land and building stabilization and foundation repair.

(c) A statement regarding the right of the policyholder to request testing by a professional ~~an~~ engineer or a professional geologist and the circumstances under which the policyholder may demand certain testing.

(5)(a) Subject to paragraph (b), if a sinkhole loss is verified, the insurer shall pay to stabilize the land and building and repair the foundation in accordance with the recommendations of the professional engineer as provided under s. 627.7073, and in consultation with the policyholder, subject to the coverage and terms of the policy. The insurer shall pay for other repairs to the structure and contents in accordance with the terms of the policy.

(b) The insurer may limit its payment to the actual cash value of the sinkhole loss, not including underpinning or grouting or any other repair technique performed below the existing foundation of the building, until the policyholder

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

enters into a contract for the performance of building stabilization or foundation repairs. After the policyholder enters into the contract, the insurer shall pay the amounts necessary to begin and perform such repairs as the work is performed and the expenses are incurred. The insurer may not require the policyholder to advance payment for such repairs. If repair has begun and the professional engineer selected or approved by the insurer determines that the repair cannot be completed within the policy limits, the insurer must either complete the professional engineer's recommended repair or tender the policy limits to the policyholder without a reduction for the repair expenses incurred. The provisions of this subsection do not apply when two or more buildings, structures, mobile homes, or manufactured buildings are insured under a blanket policy for a single amount of insurance.

(c) Upon the insurer's obtaining the written approval of the policyholder and any lienholder, the insurer may make payment directly to the persons selected by the policyholder to perform the land and building stabilization and foundation repairs. The decision by the insurer to make direct payment to such persons does not hold the insurer liable for the work performed.

(6) Except as provided in subsection (7), the fees and costs of the professional engineer or the professional geologist shall be paid by the insurer.

(9) The insurer may engage a professional structural engineer to make recommendations as to the repair of the structure.

Section 3. Section 627.7071, Florida Statutes, is created to read:

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

82 627.7071 Legislative intent.--It is the intent of the
83 Legislature that the following process be used when a sinkhole
84 claim is filed:

85 (1) The insurer shall inspect the claim.

86 (2) If the insurer is unable to determine a valid cause of
87 the damage or discovers damage to the structure consistent with
88 a sinkhole loss or if demanded by the policyholder, the insurer
89 shall engage in testing, as set forth in s. 627.7072.

90 (3) If the policyholder and the insurer are unable to
91 agree on the cause of the damage or other aspects of the
92 sinkhole claim, the policyholder and the insurer may take part
93 in neutral evaluation under s. 627.7074.

94 Section 4. Subsections (1) and (2) of section 627.7072,
95 Florida Statutes, are amended to read:

96 627.7072 Testing standards for sinkholes.--

97 (1) The professional engineer and professional geologist
98 shall perform such tests as sufficient, in their professional
99 opinion, to determine the presence or absence of sinkhole loss
100 or other cause of damage within reasonable professional
101 probability and for the professional engineer to make
102 recommendations regarding necessary building stabilization and
103 foundation repair.

104 (2) Upon conclusion of testing required by this section,
105 the person conducting the tests must provide a written report to
106 the insurer and policyholder ~~Testing by a professional geologist~~
107 ~~shall be conducted in compliance with the Florida Geological~~
108 ~~Survey Special Publication No. 57 (2005).~~

109 Section 5. Subsection (1) of section 627.7073, Florida
110 Statutes, is amended to read:

111 627.7073 Sinkhole reports.--

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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(1) Upon completion of testing as provided in s. 627.7072, the professional engineer or ~~and~~ professional geologist shall issue a report and certification to the insurer and the policyholder as provided in this section.

(a) Sinkhole loss is verified if, based upon tests performed in accordance with s. 627.7072, a professional ~~an~~ engineer or ~~and~~ a professional geologist issue a written report and certification stating:

1. That the cause of the actual physical and structural damage is sinkhole activity within a reasonable professional probability.

2. That the analyses conducted were of sufficient scope to identify sinkhole activity as the cause of damage within a reasonable professional probability.

3. A description of the tests performed.

4. A recommendation by the professional engineer of methods for stabilizing the land and building and for making repairs to the foundation.

(b) If sinkhole activity is eliminated as the cause of damage to the structure, the professional engineer or ~~and~~ professional geologist shall issue a written report and certification to the policyholder and the insurer stating:

1. That the cause of the damage is not sinkhole activity within a reasonable professional probability.

2. That the analyses and tests conducted were of sufficient scope to eliminate sinkhole activity as the cause of damage within a reasonable professional probability.

3. A statement of the cause of the damage within a reasonable professional probability.

4. A description of the tests performed.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

(c) The respective findings, opinions, and recommendations of the professional engineer or and professional geologist as to the cause of distress to the property verification or elimination of a sinkhole loss and the findings, opinions, and recommendations of the professional engineer as to land and building stabilization and foundation repair are conclusive, unless contrary findings and conclusions are proven by clear and convincing evidence shall be presumed correct.

Section 6. Section 627.7074, Florida Statutes, is created to read:

627.7074 Alternative procedure for resolution of disputed sinkhole insurance claims.--

(1) As used in this section:

(a) "Neutral evaluation" means the alternative dispute resolution provided for in this section.

(b) "Neutral evaluator" means an professional engineer or a professional geologist who has completed a course of study in alternative dispute resolution designed or approved by the department for use in the neutral evaluation process, who is determined to be fair and impartial, and who is attempting to resolve the dispute or claim under this section.

(c) "Department" means the Department of Financial Services.

(2) The department shall certify and maintain a list of persons who are neutral evaluators.

(3) Following the receipt of the report provided under s. 627.7073 or the denial of a claim for a sinkhole loss, the insurer shall notify the policyholder of his or her right to participate in the neutral evaluation program under this section. Neutral evaluation supersedes the alternative dispute resolution process under s. 627.7015. The department shall

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

173 prepare a consumer information pamphlet for distribution by the
174 insurer to policyholders. The pamphlet shall clearly describe
175 the neutral evaluation process and include directions and forms
176 necessary for the policyholder to request a neutral evaluation.

177 (4) Neutral evaluation is optional and nonbinding. Either
178 the policyholder or the insurer may decline to participate. A
179 request for neutral evaluation shall be filed with the
180 department by the policyholder or the insurer on a form approved
181 by the department. The request for neutral evaluation must state
182 the reason for the request and must include an explanation of
183 all the issues in dispute at the time of the request. Filing a
184 request for neutral evaluation tolls the applicable time
185 requirements for filing suit for a period of 60 days following
186 the conclusion of the neutral evaluation process or the time
187 prescribed in s. 95.11, whichever is later.

188 (5) Neutral evaluation shall be conducted as an informal
189 process in which formal rules of evidence and procedure need not
190 be observed. A party to neutral evaluation is not required to
191 attend neutral evaluation if a representative of the party
192 attends and has the authority to make a binding decision on
193 behalf of the party. All parties shall participate in the
194 evaluation in good faith.

195 (6) The insurer shall pay the costs associated with the
196 neutral evaluation.

197 (7) Upon receipt of a request for neutral evaluation, the
198 department shall refer the request to a neutral evaluator. The
199 neutral evaluator shall notify the policyholder and the insurer
200 of the date, time, and place of the neutral evaluation
201 conference. The conference may be held by telephone, if feasible
202 and desirable. The neutral evaluation conference shall be held
203 within 45 days after receipt of the request by the department.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

204 (8) The department shall adopt rules of procedure for the
205 neutral evaluation process.

206 (9) For policyholders not represented by an attorney, a
207 consumer affairs specialist of the department or an employee
208 designated as the primary contact for consumers on issues
209 relating to sinkholes under s. 20.121 shall be available for
210 consultation to the extent that he or she may lawfully do so.

211 (10) Evidence of an offer to settle a claim during the
212 neutral evaluation process, as well as any relevant conduct or
213 statements made in negotiations concerning the offer to settle a
214 claim, is inadmissible to prove liability or absence of
215 liability for the claim or its value, except as provided in
216 subsection (13).

217 (11) Any court proceeding related to the subject matter of
218 the neutral evaluation shall be stayed pending completion of the
219 neutral evaluation.

220 (12) For matters that are not resolved by the parties at
221 the conclusion of the neutral evaluation, the neutral evaluator
222 shall prepare a report stating that in his or her opinion the
223 sinkhole loss has been verified or eliminated and, if verified,
224 the need for and estimated costs of stabilizing the land and any
225 covered structures or buildings and other appropriate
226 remediation or structural repairs. The evaluator's report shall
227 be sent to all parties in attendance at the neutral evaluation
228 and to the department.

229 (13) The recommendation of the neutral evaluator is not
230 binding on any party and the parties retain access to courts.
231 The neutral evaluator's written recommendation is admissible in
232 any subsequent action or proceeding relating to the claim or to
233 the cause of action giving rise to the claim only for purposes
234 of determining the award of attorney's fees.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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235 (14) If the policyholder declines to participate in
236 neutral evaluation requested by the insurer or declines to
237 resolve the matter in accordance with the recommendation of the
238 neutral evaluator pursuant to this section, the insurer shall
239 not be liable for attorney's fees under s. 627.428 or other
240 provisions of the insurance code or for extra contractual
241 damages related to a claim for a sinkhole loss.

242 (15) A party may seek judicial review of the
243 recommendation of the neutral evaluator to determine whether the
244 recommendation is reasonable. A recommendation is reasonable
245 unless it was procured by corruption, fraud, or other undue
246 means; there was evident partiality by the neutral evaluator or
247 misconduct prejudicing the rights of any party; or the neutral
248 evaluator exceeded the authority and power granted by this
249 subsection. If the court declares the recommendation is not
250 reasonable, the neutral evaluation recommendation shall be
251 vacated.

252 Section 7. (1) By February 1, 2007, the Office of
253 Insurance Regulation shall calculate a presumed factor to
254 reflect the impact of the changes made in this act to rates
255 filed by residential property insurers providing sinkhole loss
256 coverage. The office shall issue a notice informing all insurers
257 writing residential property insurance coverage of the presumed
258 factor.

259 (2) In determining the presumed factor, the office shall
260 use generally accepted actuarial techniques and standards in
261 determining the expected impact on losses, expenses, and
262 investment income of the insurer.

263 (3) The office may contract with an appropriate vendor to
264 determine the presumed factor.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

(4) Each residential property insurer shall, at its next annual rate filing after May 1, 2007, reflect an overall rate reduction at least as great as the presumed factor determined under subsection (1).

(5) The sum of \$250,000 in nonrecurring funds is appropriated from the Insurance Regulatory Trust Fund in the Department of Financial Services to the Office of Insurance Regulation for the 2006-2007 fiscal year for the purposes of funding the provisions of this section.

Section 8. The sums of \$115,322 in recurring funds and \$10,486 in nonrecurring funds are appropriated from the Insurance Regulatory Trust Fund in the Department of Financial Services for the 2006-2007 fiscal year for the purposes of funding the provisions of this act, and two full-time equivalent positions with 59,435 in associated salary rate are authorized.

Section 9. This act shall take effect July 1, 2006.

===== T I T L E A M E N D M E N T =====

Remove the entire title and insert:

A bill to be entitled

An act relating to sinkhole insurance; providing a short title; revising references to certain engineers; amending s. 627.707, F.S.; excluding certain policies from payment provisions for certain repairs; authorizing insurers to make direct payment for certain repairs; excluding insurers from liability for repairs under certain circumstances; creating s. 627.7071, F.S.; providing legislative intent for the process of filing sinkhole claims; amending s. 627.7072, F.S.; requiring a report upon conclusion of testing; amending s. 627.7073, F.S.; revising a presumption relating to the findings, opinions,

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

296 and recommendations in sinkhole reports; creating s.
297 627.7074, F.S.; providing for an alternative procedure for
298 the resolution of disputed sinkhole insurance claims which
299 is optional, nonbinding, and informal; providing
300 definitions; requiring the Department of Financial
301 Services to certify and maintain a list of neutral
302 evaluators, prepare a consumer information pamphlet
303 explaining the alternative procedure, and adopt rules for
304 the implementation of an alternative procedure; providing
305 for payment of costs and attorney's fees; preserving
306 access to courts and authorizing judicial review of
307 neutral evaluation recommendations; requiring the Office
308 of Insurance Regulation to calculate a certain presumed
309 factor on residential property insurance rates; providing
310 requirements and procedures for determining such
311 calculation; requiring the office to provide notice of
312 such rate factor to insurers; requiring insurers to
313 include such rate factor in certain rate filings;
314 providing appropriations and authorizing additional
315 positions and salary rates; providing an effective date.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES
Amendment No. 1a (for drafter's use only)

Bill No. HB 217 CS

COUNCIL/COMMITTEE ACTION

ADOPTED	<u>Y</u> (Y/N)
ADOPTED AS AMENDED	___ (Y/N)
ADOPTED W/O OBJECTION	___ (Y/N)
FAILED TO ADOPT	___ (Y/N)
WITHDRAWN	___ (Y/N)
OTHER	_____

Council/Committee hearing bill:

Representative(s) Legg offered the following:

**Amendment to Strike All Amendment by Representative Legg
(with title amendment)**

Between line(s) 8 and 9 insert:

Section 2. Section 627.706, Florida Statutes, is amended
to read:

627.706 Sinkhole insurance; definitions.--

(1) Every insurer authorized to transact property
insurance in this state shall make available coverage for
insurable sinkhole losses on any structure, including contents
of personal property contained therein, to the extent provided
in the form to which the sinkhole coverage attaches.

(2) A policy for residential property insurance shall
include a deductible applicable to sinkhole losses no lower than
1 percent of the policy dwelling limits. The policy shall offer
additional deductibles applicable to sinkhole losses of 2
percent, 5 percent, and 10 percent, with premium discounts
offered with each deductible amount.

(3) ~~(2)~~ As used in ss. 627.706-627.7074, and as used in
connection with any policy providing coverage for sinkhole
losses:

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES
Amendment No. 1a (for drafter's use only)

24 (a) "Sinkhole" means a landform created by subsidence of
25 soil, sediment, or rock as underlying strata are dissolved by
26 groundwater. A sinkhole may form by collapse into subterranean
27 voids created by dissolution of limestone or dolostone or by
28 subsidence as these strata are dissolved.

29 (b) "Sinkhole loss" means structural damage to the
30 building, including the foundation, caused by sinkhole activity.
31 Contents coverage shall apply only if there is structural damage
32 to the building caused by sinkhole activity.

33 (c) "Sinkhole activity" means settlement or systematic
34 weakening of the earth supporting such property only when such
35 settlement or systematic weakening results from movement or
36 raveling of soils, sediments, or rock materials into
37 subterranean voids created by the effect of water on a limestone
38 or similar rock formation.

39 (d) "Engineer" means a person, as defined in s. 471.005,
40 who has a bachelor's degree or higher in engineering with a
41 specialty in the geotechnical engineering field. An engineer
42 must have geotechnical experience and expertise in the
43 identification of sinkhole activity as well as other potential
44 causes of damage to the structure.

45 (e) "Professional geologist" means a person, as defined by
46 s. 492.102, who has a bachelor's degree or higher in geology or
47 related earth science with expertise in the geology of Florida.
48 A professional geologist must have geological experience and
49 expertise in the identification of sinkhole activity as well as
50 other potential geologic causes of damage to the structure.

51 ~~(4)(3)~~ Every insurer authorized to transact property
52 insurance in this state shall make a proper filing with the
53 office for the purpose of extending the appropriate forms of
54 property insurance to include coverage for sinkhole losses.
55

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1a (for drafter's use only)

56 ===== T I T L E A M E N D M E N T =====

57 Remove line(s) 286 and insert:

58 title; amending s. 627.706, F.S.; authorizing residential
59 property insurance policies to offer various specified
60 deductibles applicable to sinkhole losses; revising references
61 to certain engineers; amending

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1b (for drafter's use only)

Bill No. 217 CS

COUNCIL/COMMITTEE ACTION

ADOPTED	<u>Y</u> (Y/N)
ADOPTED AS AMENDED	— (Y/N)
ADOPTED W/O OBJECTION	— (Y/N)
FAILED TO ADOPT	— (Y/N)
WITHDRAWN	— (Y/N)
OTHER	—

Council/Committee hearing bill: State Administration

Appropriations Committee

Representative(s) Berfield offered the following:

Amendment to Strike All Amendment (with directory and title amendments)

On page 7, delete lines 190 through 193 and insert:
be observed. A party to the neutral evaluation is not required
to attend, provided a representative of the party attends and
has the authority to settle the claim on behalf of the party.
All parties shall participate in the

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1c (for drafter's use only)

Bill No. 217 CS

COUNCIL/COMMITTEE ACTION

ADOPTED	<u>Y</u> (Y/N)
ADOPTED AS AMENDED	— (Y/N)
ADOPTED W/O OBJECTION	— (Y/N)
FAILED TO ADOPT	— (Y/N)
WITHDRAWN	— (Y/N)
OTHER	—

Council/Committee hearing bill: State Administration
Appropriations Committee
Representative(s) Berfield offered the following:

**Amendment to Strike All Amendment (with directory and title
amendments)**

On page 8, delete line 205 and insert:
neutral evaluation process and, through materials produced,
clarify the role of the consumer affairs specialist as a non-
attorney.

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1d

Bill No. HB 217 CS

COUNCIL/COMMITTEE ACTION

ADOPTED	<u>Y</u> (Y/N)
ADOPTED AS AMENDED	<u> </u> (Y/N)
ADOPTED W/O OBJECTION	<u> </u> (Y/N)
FAILED TO ADOPT	<u> </u> (Y/N)
WITHDRAWN	<u> </u> (Y/N)
OTHER	<u> </u>

1 Council/Committee hearing bill:

2 Representative(s) Berfield offered the following:

3
4 **Amendment to Strike All Amendment (with directory and title**
5 **amendments)**

6 Delete line(s) 148 and 149 and insert:
7 unless contrary findings and conclusions are proven by
8 preponderance of evidence shall be presumed correct.

COMMITTEE MEETING REPORT

State Administration Appropriations Committee

4/4/2006 4:00:00PM Or Upon Adjournment of the Fiscal Council

Location: 12 HOB

HB 489 CS : Electrical and Alarm System Contracting

☒ Favorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Mary Brandenburg			X		
Audrey Gibson	X				
Wilbert Holloway	X				
Stan Jordan	X				
John Legg			X		
Carlos Lopez-Cantera			X		
Ron Reagan	X				
Julio Robaina	X				
Franklin Sands	X				
Baxter Troutman	X				
Kim Berfield (Chair)	X				
Total Yeas: 8		Total Nays: 0			

Appearances:

HB 489 CS Electrical and Alarm System

Kari Hebrank (Lobbyist) - Opponent

Underwriters Laboratories, Florida Fire Marshal & Inspectors Association

7711 Deepwood Trail

Tallahassee FL 32317

Phone: 681-3290

COMMITTEE MEETING REPORT

State Administration Appropriations Committee

4/4/2006 4:00:00PM Or Upon Adjournment of the Fiscal Council

Location: 12 HOB

HB 639 : Building Designations

☒ Favorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Mary Brandenburg			X		
Audrey Gibson	X				
Wilbert Holloway	X				
Stan Jordan	X				
John Legg	X				
Carlos Lopez-Cantera	X				
Ron Reagan	X				
Julio Robaina	X				
Franklin Sands	X				
Baxter Troutman	X				
Kim Berfield (Chair)	X				
Total Yeas: 10		Total Nays: 0			

COMMITTEE MEETING REPORT

State Administration Appropriations Committee

4/4/2006 4:00:00PM Or Upon Adjournment of the Fiscal Council

Location: 12 HOB

HB 825 CS : Financial Literacy Council

☒ Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Mary Brandenburg			X		
Audrey Gibson	X				
Wilbert Holloway	X				
Stan Jordan	X				
John Legg			X		
Carlos Lopez-Cantera			X		
Ron Reagan	X				
Julio Robaina	X				
Franklin Sands	X				
Baxter Troutman	X				
Kim Berfield (Chair)	X				
Total Yeas: 8 Total Nays: 0					

COMMITTEE MEETING REPORT

State Administration Appropriations Committee

4/4/2006 4:00:00PM Or Upon Adjournment of the Fiscal Council

Location: 12 HOB

HB 1135 CS : Practice of Architecture and Interior Design

☒ Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Mary Brandenburg			X		
Audrey Gibson	X				
Wilbert Holloway	X				
Stan Jordan	X				
John Legg	X				
Carlos Lopez-Cantera			X		
Ron Reagan	X				
Julio Robaina	X				
Franklin Sands	X				
Baxter Troutman	X				
Kim Berfield (Chair)	X				
Total Yeas: 9 Total Nays: 0					

COMMITTEE MEETING REPORT

State Administration Appropriations Committee

4/4/2006 4:00:00PM Or Upon Adjournment of the Fiscal Council

Location: 12 HOB

HB 7185 : Procurement of Contractual Services by a State Agency

☒ Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Mary Brandenburg			X		
Audrey Gibson		X			
Wilbert Holloway					X
Stan Jordan	X				
John Legg			X		
Carlos Lopez-Cantera			X		
Ron Reagan	X				
Julio Robaina	X				
Franklin Sands		X			
Baxter Troutman	X				
Kim Berfield (Chair)	X				
Total Yeas: 5		Total Nays: 2			

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No.1 (for drafter's use only)

Bill No. 7185

COUNCIL/COMMITTEE ACTION

ADOPTED	<u>Y</u> (Y/N)
ADOPTED AS AMENDED	— (Y/N)
ADOPTED W/O OBJECTION	— (Y/N)
FAILED TO ADOPT	— (Y/N)
WITHDRAWN	— (Y/N)
OTHER	—

1 Council/Committee hearing bill: State Administration

2 Appropriations Committee

3 Representative(s) Berfield offered the following:

5 **Amendment (with directory and title amendments)**

6 On page 4, delete line 99 and insert:

7
8 procedure for involving the certified negotiator. At a minimum,
9 the qualifications for certification must include at least 3
10 years of purchasing or contract negotiations experience, a
11 bachelors degree, successful completion of 48 hours of
12 purchasing or contract negotiations classroom hours and
13 successful completion of a written examination on contracting
14 principles and practices. If the value
15
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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2 (for drafter's use only)

Bill No. 7185

COUNCIL/COMMITTEE ACTION

ADOPTED	<u>Y</u> (Y/N)
ADOPTED AS AMENDED	— (Y/N)
ADOPTED W/O OBJECTION	— (Y/N)
FAILED TO ADOPT	— (Y/N)
WITHDRAWN	— (Y/N)
OTHER	—

1 Council/Committee hearing bill: State Administration

2 Appropriations Committee

3 Representative(s) Berfield offered the following:

5 **Amendment (with directory and title amendments)**

6 On page 9, delete lines 241 through 247, and insert:

7
8 (j) Report to the Legislature, yearly, on the outsourcing
9 efforts of each state agency. Such reporting shall include, but
10 need not be limited to, the number of outsourcing business cases
11 and solicitations generated by each state agency, the number and
12 dollar value of outsourcing contracts by each state agency, the
13 status of outsourcing contracts and agreements including
14 performance results and program effectiveness, and, as
15 applicable, contract violations, project slippage, contract
16 extensions, renewals, and amendments.
17

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 3 (for drafter's use only)

Bill No. 7185

COUNCIL/COMMITTEE ACTION

ADOPTED	<u>Y</u> (Y/N)
ADOPTED AS AMENDED	— (Y/N)
ADOPTED W/O OBJECTION	— (Y/N)
FAILED TO ADOPT	— (Y/N)
WITHDRAWN	— (Y/N)
OTHER	—

1 Council/Committee hearing bill: State Administration

2 Appropriations Committee

3 Representative(s) Berfield offered the following:

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5 **Amendment (with directory and title amendments)**

6 Remove line(s) 257 through 258 and insert:

7 (11) The secretary of the Department of Management Services
8 shall appoint an executive director.
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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 4 (for drafter's use only)

Bill No. 7185

COUNCIL/COMMITTEE ACTION

ADOPTED	<u>Y</u> (Y/N)
ADOPTED AS AMENDED	— (Y/N)
ADOPTED W/O OBJECTION	— (Y/N)
FAILED TO ADOPT	— (Y/N)
WITHDRAWN	— (Y/N)
OTHER	—

Council/Committee hearing bill: State Administration

Appropriations Committee

Representative(s) Berfield offered the following:

Amendment (with directory and title amendments)

On page 14, delete lines 382 through 427, and insert:

(5) In addition to the contract requirements provided in s. 287.058, each contract for a proposed outsourcing, pursuant to s. 287.0574, must include, but need not be limited to, the following contractual provisions:

(a) A scope-of-work provision that clearly specifies each service or deliverable to be provided, including a description of each deliverable or activity that is quantifiable, measurable, and verifiable. This provision must include a clause that states if a particular service or deliverable is inadvertently omitted or not clearly specified but determined to be operationally necessary and verified to have been performed by the agency within the 12 months before the execution of the contract, such service or deliverable will be provided by the contractor through the identified contract-amendment process.

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 4 (for drafter's use only)

21 (b) A service-level-agreement provision describing all
22 services to be provided under the terms of the agreement, the
23 state agency's service requirements and performance objectives,
24 specific responsibilities of the state agency and the
25 contractor, and the process for amending any portion of the
26 service-level agreement. Each service-level agreement must
27 contain an exclusivity clause that allows the state agency to
28 retain the right to perform the service or activity, directly or
29 with another contractor, if service levels are not being
30 achieved.

31 (c) A provision that identifies all associated costs,
32 specific payment terms, and payment schedules, including
33 provisions governing incentives and financial disincentives and
34 criteria governing payment.

35 (d) A provision that identifies a clear and specific
36 transition plan that will be implemented in order to complete
37 all required activities needed to transfer the service or
38 activity from the state agency to the contractor and operate the
39 service or activity successfully.

40 (e) A performance-standards provision that identifies all
41 required performance standards, which must include, at a
42 minimum:

43 1. Detailed and measurable acceptance criteria for each
44 deliverable and service to be provided to the state agency under
45 the terms of the contract which document the required
46 performance level.

47 2. A method for monitoring and reporting progress in
48 achieving specified performance standards and levels.

49 3. The sanctions or disincentives that shall be imposed for
50 nonperformance by the contractor or state agency.

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 4 (for drafter's use only)

51 (f) A provision that requires the contractor and its
52 subcontractors to maintain adequate accounting records that
53 comply with all applicable federal and state laws and generally
54 accepted accounting principles.

55 (g) A requirement authorizing state access to and audit of
56 all records related to the contract or any responsibilities or
57 functions under the contract for state audit and legislative
58 oversight purposes.

59 (h) A requirement for service organization audits in
60 accordance with professional auditing standards, if appropriate.

61 (i) A provision that requires the contractor to interview
62 and consider for employment with the contractor each displaced
63 state employee who is interested in such employment.

64 (j) A contingency-plan provision that describes the
65 mechanism for continuing the operation of the service or
66 activity, including transferring the service or activity back to
67 the state agency or successor contractor if the contractor fails
68 to perform and comply with the performance standards and levels
69 of the contract and the contract is terminated.

70 (k) A provision that requires the contractor and its
71 subcontractors to comply with public-records laws, specifically
72 to:

73 1. Keep and maintain the public records that ordinarily and
74 necessarily would be required by the state agency in order to
75 perform the service or activity.

76 2. Provide the public with access to such public records on
77 the same terms and conditions that the state agency would
78 provide the records and at a cost that does not exceed that
79 provided in chapter 119 or as otherwise provided by law.

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 4 (for drafter's use only)

80 3. Ensure that records that are exempt or records that are
81 confidential and exempt are not disclosed except as authorized
82 by law.

83 4. Meet all requirements for retaining records and transfer
84 to the state agency, at no cost, all public records in
85 possession of the contractor upon termination of the contract
86 and destroy any duplicate public records that are exempt or
87 confidential and exempt. All records stored electronically must
88 be provided to the state agency in a format that is compatible
89 with the information technology systems of the state agency.

90 (1) A provision that specifies the ownership of
91 intellectual property and any rights of the state agency to use,
92 modify, reproduce, or disseminate the intellectual property if
93 the contract involves the development or creation of such
94 intellectual property. This paragraph does not provide the
95 specific authority needed by an agency to obtain a copyright or
96 trademark.

97 (m) A provision that states that the agency retains the
98 right, in its sole discretion, to co-negotiate any third-party
99 or subcontractor contracts, excluding any terms relating to
100 financial compensation.

101 (n) If applicable, a provision that allows the agency to
102 purchase from the contractor, at its depreciated value, assets
103 used by the contractor in the performance of the contract. If
104 assets have not depreciated, the agency shall retain the right
105 to negotiate to purchase at an agreed-upon cost.

106 (o) Each vendor in a major procurement in excess of
107 \$25,000, and any other vendor if the department deems it
108 necessary to protect the state's financial interest, shall, at
109 the time of executing the contract with the department, post an

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 4 (for drafter's use only)

110 appropriate bond with the department in an amount determined by
111 the department to be adequate to protect the state's interests,
112 but not higher than the full amount estimated to be paid
113 annually to the vendor under the contract. In lieu of the bond,
114 a vendor may, to assure the faithful performance of its
115 obligations, file with the department an irrevocable letter of
116 credit acceptable to the department in an amount determined by
117 the department to be adequate to protect the state's interests
118 or deposit and maintain with the Chief Financial Officer
119 securities that are interest bearing or accruing and that, with
120 the exception of those specified in paragraphs 1 and 2, are
121 rated in one of the four highest classifications by an
122 established nationally recognized investment rating service.
123 Securities eligible under this subsection shall be limited to:

124 1. Certificates of deposit issued by solvent banks or
125 savings associations organized and existing under the laws of
126 this state or under the laws of the United States and having
127 their principal place of business in this state.

128 2. United States bonds, notes, and bills for which the
129 full faith and credit of the government of the United States is
130 pledged for the payment of principal and interest.

131 3. General obligation bonds and notes of any political
132 subdivision of the state.

133 4. Corporate bonds of any corporation that is not an
134 affiliate or subsidiary of the depositor. Such securities shall
135 be held in trust and shall have at all times a market value at
136 least equal to an amount determined by the department to be
137 adequate to protect the state's interests, which amount shall
138 not be set higher than the full amount estimated to be paid
139 annually to the vendor under contract.

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 4 (for drafter's use only)

140 (p) Every contract in excess of \$25,000 entered into by
141 the department pursuant to this section shall contain a
142 provision for payment of liquidated damages to the department
143 for any breach of contract by the vendor. The department may
144 require a liquidated damages provision in any contract if the
145 department deems it necessary to protect the state's financial
146 interest.

147 (q) Every contract entered into by the department pursuant
148 to this section shall have as one of the department's
149 signatories to the contract an attorney licensed by the Florida
150 Bar Association.

151 (6) Any contract resulting from an outsourcing which does
152 not include the requirements defined in (5) above shall be null
153 and void.

154 (7) Unless otherwise exempted from the provisions of this
155 act, no agency shall proceed with the solicitation of a
156 procurement for outsourcing if the Governor, the President of
157 the Senate, or the Speaker of the House of Representatives
158 objects, for any reason, to the initial business case analysis
159 provided by the agency for the outsourcing initiative.

160 (8) Unless otherwise exempted from the provisions of this
161 act, no agency shall proceed with the execution of a contract
162 for outsourcing if the Governor, the President of the Senate or
163 the Speaker of the House of Representatives objects, for any
164 reason, to the final business case analysis provided by the
165 agency for the outsourcing initiative.

166 (9) Unless otherwise exempted from the provision of this
167 act, any agency that violates the provisions of this act shall
168 be subject to a review by the Auditor General of actions taken
169 by the agency. The Auditor General shall provide a report of

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 4 (for drafter's use only)

findings to the Governor, the President of the Senate and the
Speaker of the House of Representatives. If the Auditor General
finds that the agency has violated the provisions of this act,
the Legislature shall conduct an immediate review of the
agency's appropriations to determine the appropriate actions to
be taken for placing the agency's funds in mandatory reserve.

===== T I T L E A M E N D M E N T =====

Remove line(s) 36 and insert:

procurement; providing for nullification of executed contracts
for procurement under specified circumstances; providing for
legislative review of an agency's appropriations upon a
determination that the agency has violated the provisions of the
act; amending s. 287.058, F.S.; providing that a

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 5 (for drafter's use only)

Bill No. 7185

COUNCIL/COMMITTEE ACTION

ADOPTED Y (Y/N)
ADOPTED AS AMENDED — (Y/N)
ADOPTED W/O OBJECTION — (Y/N)
FAILED TO ADOPT — (Y/N)
WITHDRAWN — (Y/N)
OTHER —

Council/Committee hearing bill: State Administration

Appropriations Committee

Representative(s) Berfield offered the following:

Amendment (with directory and title amendments)

On pages 17 through 18, delete lines 461 through 479 and insert:

Section 10. For the 2006-2007 fiscal year, the sum of \$750,000 in recurring funds from the General Revenue Fund in a qualified expenditure category is appropriated and eight full-time equivalent positions are authorized to the Department of Management Services to carry out the activities of the Council on Efficient Government as provided in this act.
Section 11. The Department of Management Services may implement a program to train state agency employees who are involved in managing outsourcings as Project Management Professionals, as certified by the Project Management Institute. For the 2006-2007 fiscal year, the sum of \$250,000 in recurring funds from the General Revenue Fund in a qualified expenditure category is appropriated to the Department of Management Services to implement this program. The Department of Management

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 5 (for drafter's use only)

23 Services, in consultation with entities subject to this act,
24 shall identify personnel to participate in this training based
25 on requested need and ensure that each is represented. The
26 Department of Management Services may remit payment for this
27 training on behalf of all participating personnel.
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COMMITTEE MEETING REPORT
State Administration Appropriations Committee
4/4/2006 4:00:00PM Or Upon Adjournment of the Fiscal Council

Location: 12 HOB

Summary:

State Administration Appropriations Committee

Tuesday April 04, 2006 04:00 pm

HB 159 CS	Favorable	Yeas: 9	Nays: 0
HB 217 CS	Favorable With Committee Substitute	Yeas: 10	Nays: 0
HB 489 CS	Favorable	Yeas: 8	Nays: 0
HB 639	Favorable	Yeas: 10	Nays: 0
HB 825 CS	Favorable	Yeas: 8	Nays: 0
HB 1135 CS	Favorable	Yeas: 9	Nays: 0
HB 7185	Favorable With Committee Substitute	Yeas: 5	Nays: 2